D.B. CIVIL SPECIAL APPEAL(W)NO.821/2006

Ravindra Kumar Nagar
Vs.
State Bank of Bikaner & Jaipur

DATE OF ORDER :: 16-01-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Saransh Saini, for the appellant.

This special appeal is directed against the order of the learned Single Judge dated 16.5.2006 dismissing the writ petition of the appellant. The appellant had filed the writ petition for quashing an order dated 16.8.2000 by which the application for compassionate appointment was rejected, and for a direction to appoint him on compassionate ground.

Brief facts of the case are that father of the appellant, B.L. Nagar, died in harness while serving the State Bank of Bikaner and Jaipur at Kota Branch on 16.7.1998. The appellant claims to have filed application for compassionate appointment on 22.12.1998. The respondent-bank made certain queries and finally rejected his claim on 16.8.2000. The appellant filed writ petition being SBCWP no.6996/05 after five years. In response to the observation of the Court that there was inordinate delay in filing the writ petition, counsel submitted that petitioner had met with accident in which he lost his one

eye. Admittedly, the accident in question had occurred on 18.8.1999. On his own saying vide annexure-4 to the writ petition, he underwent treatment for a period of two months in Bangur hospital. There was no justification to file the writ petition after five years.

In the case of compassionate appointment, time is of great essence. Appointment on compassionate ground is basically an exception to the rule of equality under Article 16 of the Constitution. It has nevertheless been upheld by courts as a token of recognition of the past services rendered by the deceased employee. While highliting that it is a measure of financial help to the bereaved family, it has been emphasised that having regard to the object underlying such appointment, it should be made within reasonable time of the death. There cannot be any justification to offer compassionate appointment after seven years of the death. As on date, nine years have passed.

Counsel submitted that the claim was rejected on a ground which is not inconsonance with the decision of the Supreme Court in Balbir Kaur & Another Vs. Steel Authority of India Ltd. & Others, (2000) 6 SCC 493 and Goverdhan Prakash Verma Vs. Life Insurance Corporation of India, (2005) 10 SCC 289. It was stated that the claim was rejected on the ground that the family has sufficient income from family pension and other sources but income

by way of family pension cannot be taken into consideration, as held in the above said decisions.

We do not find similarity between the case of appellant and the above said case. All said and done, the appellant cannot be allowed compassionate appointment at this stage. The appellant approached this Court after seven years of the death and five years of rejection of his claim. As on date such a direction would not be in accordance with Article 16 of the Constitution of India.

We, therefore find no reason to interfere with the order of the learned Single Judge dismissing the writ petition. The appeal stands dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen